IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13778 of 2004

Between:

Mahammad Khadar, S/o.Chand Pasha,
R/o.H.No.8-2-12/1, Sainagar, Sircilla, Karimnagar Dist.

..... PETITIONER

AND

The Regional Passport office, Near Clock Tower, Secunderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the inaction of the respondent to receive the application to consider for issuance of fresh passport with correct date of birth of the petitioner, as illegal, arbitrary and violative of Article 14 of the Constitution of India, and consequently direct the respondent to receive the petitioner's application and consider for issuance of fresh passport with correct date of birth of the petitioner as 02-09-1980 as per the Secondary school certificate.

Counsel for the Petitioner:MR.T.DAMODAR

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

THE HON'BLE SRI JSUTICE V.V.S.RAO

WRIT PETITION NO.13778 OF 2004

ORDER:

This writ petition is filed seeking a declaration that the inaction of the Passport Issuing Authority, respondent herein, in receiving the application to consider for issuance of fresh passport with correct date of birth of petitioner, is illegal, arbitrary and violative of Article 14 of the Constitution of India, and consequently direct the respondent to receive the petitioner's application and consider for issuance of fresh passport with correct date of birth of petitioner as 2.9.1980 as per his Secondary School Certificate.

It is the case of the petitioner that he was born on 2.9.1980. In 2002, he applied for passport and in the application for passport inadvertently he mentioned the date of birth as 10.6.1966. Accordingly, passport bearing No.E 1392892 was issued on 20.3.2002 showing his date of birth as 10.6.1966. He approached the respondent with a request to change the date of birth in the passport. The respondent refused to correct the date of birth of petitioner. Hence, the present Writ Petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 2.9.1980. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dated 18-4-2001.

Following the judgment of this Court in ***Ali Imran*** (supra), this writ petition is also disposed of directing the respondent to consider the application of the petitioner along with the Secondary School Certificate No.PC/34/0247107/7, dt.23.5.1996 issued by the Secretary, Board of Secondary Education, Andhra Pradesh, and to pass appropriate orders in the light of the observations made in the above judgment. There shall be no order as to costs.

(V.V.S.RAO, J.)

5.8.2004

Note: CC in one week

B/o

Bnr

To

1. The Regional Passport officer, Near Clock Tower, Secunderabad.
2. Two CD copies.